HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

(DIVISION BENCH)

CORAM : Hon'ble Shri S.R. Nayak, CJ
Hon'ble Shri Satish K. Agnihotri, J.

Writ Petition No. 5942 OF 2005

PETITIONER

Amitesh Agrey, S/o. Dr. C.P. Agrey, aged about 25 years, R/o Main Road, Chakarbhata Camp, Bilaspur (C.G.)

Versus

RESPONDENTS

1. State of C.G. Through - Secretary Department of Home Affairs, D.K.S. Bhawan, Raipur (C.G.)

2. Superintendent of Police, Bilaspur (C.G.)

3. Station House Officer, P.S. Civil Lines, Bilaspur (C.G.)

4. Mrs. Priya Behrani, W/o Amitesh Agrey, aged about 23 years, R/o at present Near Sindhi Dharamsala, Behind Pankaj STD/PCO, Sindhi Colony, Bilaspur (C.G.)

5. Murlidhar Behrani, S/o Late Topan Das Behrani, aged about 50 years, R/o Near Sindhi Dharamsala, Behind Pankaj STD/PCO, Sindhi Colony, Bilaspur (C.G.)

Present:

Mr. Praveen Das, learned counsel for the petitioner.

Mr. P.K. Verma, Addl. Advocate General for the State/ respondents No. 1,2 & 3.

Dr. Shailesh Ahuja for respondent No. 4 & 5.

ORAL ORDER
(Passed on 5th of December 2005)

The following Order of the Court was passed by

S.R. Nayak, C.J.

In this petition a writ of habeas corpus is sought by the petitioner Shri Amitesh Agrey. It is his case that he married respondent No. 4 Mrs. Priya Behrani on 8.11.2005 at Arya Samaj Mandir, Bilaspur after performing the religious ceremonies. In support of the marriage, he has produced certificates issued by Arya Samaj Mandir, Gondpara, Bilaspur. It is complained that parents of the 4th respondent who are opposing the marriage between the petitioner and the 4th respondent and high-handedly took away the 4th respondent against her will and wish and she has been confined in their residence. So complaining, the petitioner sought intervention of the Court. In view of the above pleading of the petitioner, we on 29.11.2005 directed that respondent No. 4 and her father, respondent No. 5 shall appear in person on 5.12.2005 at 10.30 a.m. Accordingly, at the time of hearing, 4th respondent was present before the Court and her father, 5th respondent was also present before the Court. The petitioner was also present.

2. We have heard learned counsel for the parties. We have also examined the petitioner, the 4th respondent as well as the 5th respondent. The 4th respondent outright denies the marriage between her and the petitioner. When we confronted her with the photographs produced by the petitioner, she would tell us that all those documents and photographs are concocted and she did not marry. She also told us that she is not willing to go and stay with the petitioner. The father of the 4th respondent (5th respondent) also denies the marriage between the petitioner and the 4th respondent and claims that he does not know anything about the marriage. In the circumstance, we do not think that we are required to take any further steps in the present petition. If the petitioner has married the 4th respondent on 8.11.2005 and she refuses to perform the conjugal obligations cast on her in terms of law, he can work out his legal remedies

before the Family Court in accordance with Law. Since it is the case of the 4th respondent that she is not coerced or detained by the 5th respondent to part with the company of the petitioner and she is out of her own volition and will staying with the father, we cannot direct her to go and join the petitioner, in the present proceedings. In the circumstance, we dispose of this writ petition, however, reserving liberty as noted above to the petitioner to work out his legal remedies in accordance with law before the Family Court. There is no order as to costs.

Sd/-
Chief Justice

Sd/-
Satish K. Agnihotri
Judge

Subby